

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL KLEEGERG, LISA STEIN and AUDREY HAYS,
Plaintiffs,

v.

LESTER EBER, ALEXBAY, LLC f/k/a LESTER EBER, LLC,
ESTATE OF ELLIOTT W. GUMAER, JR. and WENDY EBER,

Defendants,

and

EBER BROS. & CO, INC., EBER BROS. WINE AND LIQUOR
CORP., EBER BROS. WINE & LIQUOR METRO, INC., EBER-
CONNECTICUT, LLC, EBER-RHODE ISLAND, LLC, EBER BROS.
ACQUISITION CORP., EBER-METRO, LLC, SLOCUM & SONS
OF MAINE, INC., and CANANDAIGUA NATIONAL BANK &
TRUST COMPANY,

Nominal Defendants.

Civil Action No.
16-CV-9517(LAK/KHP)

DECLARATION OF COLIN D. RAMSEY, ESQ.

1. I, Colin D. Ramsey, am an attorney licensed to practice in the State of New York and in this Court.

2. I submit this Declaration in support of the Stipulation to substitute the Estate of Lester Eber as a defendant in this litigation.

3. Lester Eber, deceased, was a named defendant in this action in his individual capacity.

4. On April 4, 2020, Lester Eber passed away from complications relating to COVID-19.

5. Under Fed.R.Civ.P. 25(a)(1), "If a party dies and the claim is not extinguished, the court may order substitution of the proper party."

6. On September 24, 2020 Wendy Eber was issued Letters Testamentary by the Monroe County Surrogate's Court, permitting her to serve as Executrix of Lester Eber's Estate.

7. Accordingly, the Estate of Lester Eber may now be substituted as a defendant in place of Lester Eber.

8. Ms. Eber has elected to retain Underberg & Kessler LLP to represent the Estate of Lester Eber and Alexbay.

9. Counsel for plaintiffs and for co-defendant, Estate of Elliott W. Gumaer, Jr., have agreed to stipulate to the substitution of the Estate of Lester Eber.

WHEREFORE, for each and all of the foregoing reasons, Wendy Eber requests that an order of substitution be entered substituting the Estate of Lester Eber as a party defendant in lieu of original defendant Lester Eber, deceased.

DATED: October 1, 2020
Buffalo, New York

UNDERBERG & KESSLER LLP

By: 

Colin D. Ramsey, Esq., Of Counsel
Attorneys for Eber Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

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A handwritten signature in black ink, appearing to read "Colin D. Ramsey", is written over a horizontal line.

Colin D. Ramsey, Esq., Of Counsel
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